

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TIMOTHY R. CARIGON, #254039

Petitioner,

Civil No: 00-75567

Honorable Arthur J. Tarnow

Magistrate Judge Steven D. Pepe

v.

MARY BERGHUIS,

Respondent.

MEMORANDUM OPINION & ORDER DENYING
PETITIONER'S MOTION FOR RECONSIDERATION

I. INTRODUCTION

This matter is before the Court on Petitioner's Motion for Reconsideration Denying Writ of Habeas Corpus. Respondent did not file a responsive pleading. On August 8, 2005, this Court entered a Memorandum Opinion & Order Denying Petitioner's Writ of Habeas Corpus. Petitioner seeks to have the Court reconsider its decision.

II. BRIEF STATEMENT OF FACTS

On June 22, 1980, in the village of Saranac, in Ionia County, Roy Fisher was killed when his fifth-wheel trailer, in which he resided, caught fire. The prosecution alleged that Petitioner, who was seventeen at the time, was the individual responsible for setting the fire. However, it was not until sixteen years after Mr. Fisher's death that Petitioner's case was brought to trial (i.e., 1996). Prior to 1996, the Ionia County prosecutors declined to charge Petitioner with Mr. Fisher's death due to insufficient evidence. However, Julia Coulier a/k/a Julia Vasquez, who had been interviewed

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over the years regarding the fire, came forward after being granted immunity in 1996. Ms. Vasquez's statements to prosecutors implicated the Petitioner in the death of Mr. Fisher.

III. STANDARD OF REVIEW

A. Motion for Rehearing & Reconsideration

Pursuant to Eastern District of Michigan Local Rule 7.1(g)(1)-(3) it is within the Court's discretion to grant or deny motions for rehearing and reconsideration. Generally, the Court will deny motions for rehearing or reconsideration if the motion merely presents the same issues ruled upon by the Court in its previous order. *See, Graham ex. rel. Estate of Graham v. County of Washtenaw*, 358 F.3d 377, 386 (6th Cir 2004). Petitioner, in this case, must "demonstrate a palpable defect by which the Court and the parties have been misled, but also show that correcting the defect will result in a different disposition of the case." *Id.*

IV. APPLICABLE LAW & ANALYSIS

This motion is being decided without oral argument pursuant to Eastern District of Michigan Local Rule 7.1(e)(1) and 7.1(g)(2). In addition, the Court will not require Respondents to file a response pursuant to Eastern District of Michigan Local Rule 7.1(g)(2). Having reviewed all of the pleadings, the Court finds that Plaintiff's Motion for Reconsideration Denying Writ of Habeas Corpus presents issues that have already been ruled on by the Court.

V. CONCLUSION

For the foregoing reasons, the Court concludes that there was no palpable defect demonstrated by the Petitioner with this Court's August 8, 2005 Opinion and Order denying habeas

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relief.

Accordingly,

IT IS HEREBY ORDERED that the Petitioner's Motion for Reconsideration Denying Writ of Habeas Corpus [Doc. #40-1, filed September 19, 2005] is **DENIED**.

s/Arthur J. Tarnow

Arthur J. Tarnow

United States District Judge

Dated: January 27, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 27, 2006, by electronic and/or ordinary mail.

s/Catherine A. Pickles

Judicial Secretary